



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 15, 1992

Ms. Susan Spinks
University of Houston System
Office of University Counsel
1600 Smith, Suite 3400
Houston, Texas 77002

OR92-232

Dear Ms. Spinks:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14510.

You seek an open records decision from this office pursuant to section 7(c) of the act with regard to two open records requests for the proposals submitted to the University of Houston System to provide information system/technology management services. This office notified representatives of each company which submitted a proposal of your request for an open records decision. In our letter to those companies, this office asked each company to explain why their proposal should be excepted from required public disclosure, with the caveat that their failure to so explain within a reasonable time would result in this office instructing you to disclose the information.

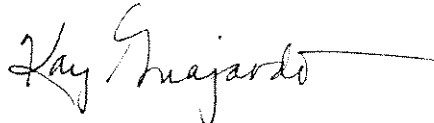
Of the companies notified, all but one, KPMG Peat Marwick, failed to explain why the requested proposals should not be released. Consequently, except for the information from KPMG Peat Marwick, we have no basis for applying any exceptions to required public disclosure of the bid proposals. *See Open Records Decision No. 552 (1990)*. Because neither you nor those companies have contended that the requested information should be withheld, you must release the proposals of those companies from whom we have received no explanation.

As noted above, however, representatives of KPMG Peat Marwick advanced arguments for withholding portions of their proposal as trade secrets. KPMG Peat

Marwick applied the six factors to be assessed in determining whether information qualifies as a trade secret, as provided in section 757 comment b, of the Restatement of Torts (1939), to the information at issue and thereby established a *prima facie* case that the information constitutes a trade secret. This office has received no argument that the information in question does not constitute a trade secret. Thus, the board must withhold the "Approach" section (pages 3 through 12), the "Qualifications" section (pages 15 through 18), and Appendices B and C of the KPMG Peat Marwick proposal. The remaining portions of that proposal must be released. See Open Records Decision No. 552.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-232.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/RWP/lmm

Ref.: ID# 14510
ID# 14602
ID# 14739
ID# 15189
ID# 15322

Enclosures: Submitted documents

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